

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CHUE DOA YANG, et al.,

Plaintiffs,

v.

COUNTY OF YUBA, et al.,

Defendants.

No. 2:23-cv-00066-TLN-JDP

**ORDER**

This matter is before the Court on Defendants County of Yuba (the “County”), Jeffrey T. Palmer (“Palmer”), and Ismael Ramos’s (“Ramos”) (collectively, “County Defendants”) Motion to Dismiss.<sup>1</sup> (ECF No. 53.) Plaintiffs Chue Doa Yang and Mai Thao Yang (collectively, “Plaintiffs”) filed an opposition. (ECF No. 54.) County Defendants filed a reply. (ECF No. 56.) For the reasons set forth below, the Court GRANTS in part and DENIES in part County Defendants’ motion.

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<sup>1</sup> Defendants Wellpath, LLC, Christina Boets (“Boets”), and Taylor Fithian (“Fithian”) (collectively, “Wellpath Defendants”) filed an answer to Plaintiffs’ Second Amended Complaint (*see* ECF No. 52), and thus are not party to the instant motion to dismiss.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

The facts of this case are set forth in full in this Court’s June 13, 2024 Order and are incorporated herein by reference. (ECF No. 42.) On June 13, 2024, the Court granted County Defendants’ motion to dismiss with leave to amend. (*Id.*) On July 5, 2024, Plaintiffs filed the operative Second Amended Complaint (“SAC”) alleging claims for: (1) deliberate indifference to serious medical needs under 42 U.S.C. § 1983 (“§ 1983”) against Palmer, Ramos, Boets, and Fithian; (2) deprivation of familial relations under § 1983 against Palmer, Ramos, Boets, and Fithian; (3) § 1983 *Monell* liability against the County and Wellpath LLC; (4) § 1983 supervisory liability against Palmer and Fithian; (5) violation of California Civil Code § 52.1(b) (the “Bane Act”) against Palmer, Ramos, Boets, and Fithian; and (6) negligence against Palmer, Ramos, the County, Boets, and Wellpath LLC. (ECF No. 44.)

On July 25, 2024, County Defendants filed the instant motion to dismiss. (ECF No. 53.) On August 8, 2024, Plaintiffs filed an opposition. (ECF No. 54.) On August 13, 2024, County Defendants filed a reply. (ECF No. 56.)

**II. STANDARD OF LAW**

A motion to dismiss for failure to state a claim upon which relief can be granted under Federal Rule of Civil Procedure (“Rule”) 12(b)(6) tests the legal sufficiency of a complaint. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). Rule 8(a) requires that a pleading contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 677–78 (2009). Under notice pleading in federal court, the complaint must “give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atlantic v. Twombly*, 550 U.S. 544, 555 (2007) (internal citation and quotations omitted). “This simplified notice pleading standard relies on liberal discovery rules and summary judgment motions to define disputed facts and issues and to dispose of unmeritorious claims.” *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002).

On a motion to dismiss, the factual allegations of the complaint must be accepted as true. *Cruz v. Beto*, 405 U.S. 319, 322 (1972). A court must give the plaintiff the benefit of every reasonable inference to be drawn from the “well-pleaded” allegations of the complaint. *Retail*

1 *Clerks Int’l Ass’n v. Schermerhorn*, 373 U.S. 746, 753 n.6 (1963). A plaintiff need not allege  
2 “‘specific facts’ beyond those necessary to state his claim and the grounds showing entitlement to  
3 relief.” *Twombly*, 550 U.S. at 570 (internal citation omitted).

4 Nevertheless, a court “need not assume the truth of legal conclusions cast in the form of  
5 factual allegations.” *U.S. ex rel. Chunie v. Ringrose*, 788 F.2d 638, 643 n.2 (9th Cir. 1986).  
6 While Rule 8(a) does not require detailed factual allegations, “it demands more than an  
7 unadorned, the defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678. A  
8 pleading is insufficient if it offers mere “labels and conclusions” or “a formulaic recitation of the  
9 elements of a cause of action.” *Twombly*, 550 U.S. at 555; *see also Iqbal*, 556 U.S. at 678  
10 (“Threadbare recitals of the elements of a cause of action, supported by mere conclusory  
11 statements, do not suffice.”). Thus, “[c]onclusory allegations of law and unwarranted inferences  
12 are insufficient to defeat a motion to dismiss” for failure to state a claim. *Adams v. Johnson*, 355  
13 F.3d 1179, 1183 (9th Cir. 2004) (citations omitted). Moreover, it is inappropriate to assume the  
14 plaintiff “can prove facts that it has not alleged or that the defendants have violated the . . . laws  
15 in ways that have not been alleged.” *Associated Gen. Contractors of Cal., Inc. v. Cal. State*  
16 *Council of Carpenters*, 459 U.S. 519, 526 (1983).

17 Ultimately, a court may not dismiss a complaint in which the plaintiff has alleged “enough  
18 facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim  
19 has facial plausibility when the plaintiff pleads factual content that allows the court to draw the  
20 reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at  
21 680. While the plausibility requirement is not akin to a probability requirement, it demands more  
22 than “a sheer possibility that a defendant has acted unlawfully.” *Id.* at 678. This plausibility  
23 inquiry is “a context-specific task that requires the reviewing court to draw on its judicial  
24 experience and common sense.” *Id.* at 679. Thus, only where a plaintiff fails to “nudge [his or  
25 her] claims . . . across the line from conceivable to plausible[,]” is the complaint properly  
26 dismissed. *Id.* at 680 (internal quotations omitted).

27 In ruling on a motion to dismiss, a court may consider only the complaint, any exhibits  
28 thereto, and matters which may be judicially noticed pursuant to Federal Rule of Evidence 201.

1 *See Mir v. Little Co. of Mary Hosp.*, 844 F.2d 646, 649 (9th Cir. 1988); *Isuzu Motors Ltd. v.*  
 2 *Consumers Union of U.S., Inc.*, 12 F. Supp. 2d 1035, 1042 (C.D. Cal. 1998); *see also Daniels-*  
 3 *Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998 (9th Cir. 2010) (the court need not accept as true  
 4 allegations that contradict matters properly subject to judicial notice).

5 If a complaint fails to state a plausible claim, “[a] district court should grant leave to  
 6 amend even if no request to amend the pleading was made, unless it determines that the pleading  
 7 could not possibly be cured by the allegation of other facts.” *Lopez v. Smith*, 203 F.3d 1122,  
 8 1130 (9th Cir. 2000) (en banc) (quoting *Doe v. United States*, 58 F.3d 494, 497 (9th Cir. 1995));  
 9 *see also Gardner v. Martino*, 563 F.3d 981, 990 (9th Cir. 2009) (finding no abuse of discretion in  
 10 denying leave to amend when amendment would be futile). Although a district court should  
 11 freely give leave to amend when justice so requires under Rule 15(a)(2), “the court’s discretion to  
 12 deny such leave is ‘particularly broad’ where the plaintiff has previously amended its complaint.”  
 13 *Ecological Rights Found. v. Pac. Gas & Elec. Co.*, 713 F.3d 502, 520 (9th Cir. 2013) (quoting  
 14 *Miller v. Yokohama Tire Corp.*, 358 F.3d 616, 622 (9th Cir. 2004)).

### 15 **III. ANALYSIS**

16 County Defendants move to dismiss all claims against them. (ECF No. 53-1.) The Court  
 17 will address each claim in turn.

#### 18 **A. Deliberate Indifference to Serious Medical Needs**

19 In Claim One, Plaintiffs allege Palmer and Ramos “deprived [Yang] as a pretrial detainee  
 20 of the rights, privileges, and immunities secured by the Fourteenth Amendment by subjecting  
 21 him, or through their deliberate indifference, allowing others to subject, to delay and denial of  
 22 access to medical or mental health care . . . .” (ECF No. 44 at 24.)

23 Under the Due Process Clause of the Fourteenth Amendment, “persons in custody have  
 24 the established right to not have officials remain deliberately indifferent to their serious medical  
 25 needs.” *Gibson v. County of Washoe*, 290 F.3d 1175, 1187 (9th Cir. 2002) (quoting *Carnell v.*  
 26 *Grimm*, 74 F.3d 977, 979 (9th Cir. 1996)), *overruled on other grounds by Castro v. County of Los*  
 27 *Angeles*, 833 F.3d 1060, 1076 (9th Cir. 2016). To state a plausible claim for failure to provide  
 28 medical treatment, a plaintiff must plead sufficient facts to permit the court to infer: (1) the

1 plaintiff had a “serious medical need”; and (2) the defendant was “deliberately indifferent” to that  
 2 need. *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006).

3 As to the first prong, the Court’s June 13, 2024 Order found County Defendants conceded  
 4 Plaintiffs had sufficiently alleged that Yang had a serious medical need because he suffered from  
 5 suicidal ideations. (ECF No. 42 at 6.)

6 As to the second prong, the Court must apply the objective deliberate indifference  
 7 standard because Plaintiffs’ claims are based on his status as a pretrial detainee. *See Gordon v.*  
 8 *County of Orange*, 888 F.3d 1118, 1124–25 (9th Cir. 2018) (“[W]e hold that claims for violations  
 9 of the right to adequate medical care ‘brought by pretrial detainees against individual defendants  
 10 under the Fourteenth Amendment’ must be evaluated under an objective deliberate indifference  
 11 standard.”) (quoting *Castro*, 833 F.3d at 1070)). Pursuant to this standard, a pretrial detainee  
 12 must allege:

13 (i) the defendant made an intentional decision with respect to the  
 14 conditions under which the plaintiff was confined; (ii) those  
 15 conditions put the plaintiff at substantial risk of suffering serious  
 16 harm; (iii) the defendant did not take reasonable available measures  
 17 to abate that risk, even though a reasonable official in the  
 circumstances would have appreciated the high degree of risk  
 involved—making the consequences of the defendant’s conduct  
 obvious; and (iv) by not taking such measures, the defendant caused  
 the plaintiff’s injuries.

18 *Id.* at 1125.

19 Regarding the third element of the *Gordon* test, a “defendant’s conduct must be  
 20 objectively unreasonable, a test that will necessarily turn on the facts and circumstances of each  
 21 particular case.” *Id.* This differs from the Eighth Amendment test for deliberate indifference to  
 22 the medical needs of convicted inmates which requires that the “prison official must subjectively  
 23 have a sufficiently culpable state of mind.” *Id.* at 1125 n.4 (internal quotations omitted). Put  
 24 differently, to satisfy the third element of the *Gordon* test a plaintiff need only allege that a  
 25 reasonable person in the official’s position would have realized the high degree of risk — not that  
 26 the official in question realized such risk. *Id.* at 1125. Still, a plaintiff must allege more than  
 27 objectively negligent conduct to bring a constitutional claim. *Id.* (requiring plaintiffs to “prove  
 28 more than negligence but less than subjective intent — something akin to reckless disregard”).

1 The Court will first address Plaintiffs’ deliberate indifference claim against Ramos and  
2 then Plaintiffs’ claim against Palmer.

3 *i. Ramos*

4 As to the first two elements of the *Gordon* test, the Court already found the First Amended  
5 Complaint (“FAC”) plausibly alleges Ramos made the intentional decision to conduct allegedly  
6 insufficient hourly safety checks, which exposed Yang to a substantial risk of suffering a serious  
7 harm because Ramos gave Yang the opportunity to engage in self-harm. (ECF No. 42 at 7.)  
8 Since the SAC includes the same allegations, the SAC also plausibly alleges the first two  
9 elements of the *Gordon* test. (See ECF No. 44.)

10 As to the third element of the *Gordon* test, the thrust of County Defendants’ argument is  
11 that they cannot be “deliberately indifferent to a medical need that is hidden or unknown.” (ECF  
12 No. 53-1 at 13.) County Defendants argue the SAC does not plausibly allege that Defendants  
13 knew Yang was a substantial suicide risk, nor does it allege they intentionally chose not to abate  
14 that risk. (*Id.*) County Defendants further argue there are no allegations that Ramos had directly  
15 interacted with Yang, was aware of the details of Yang’s court hearing, or had access to Yang’s  
16 medical records. (*Id.* at 14.) County Defendants concede Plaintiffs allege Ramos knew Yang  
17 was previously on suicide watch, but argue Ramos also knew Yang was medically cleared to  
18 return to regular housing. (*Id.*)

19 In opposition, Plaintiffs contend Ramos knew Yang had been on suicide watch, and  
20 Ramos and Yang had contact after Yang’s first court appearance. (ECF No. 54 at 18.) Plaintiffs  
21 contend that, given these circumstances, a reasonable correctional officer would have appreciated  
22 the high degree of risk involved in conducting insufficient welfare checks. (*Id.*)

23 In its previous Order, the Court noted that Plaintiffs do not allege in the FAC that Ramos  
24 knew Yang had previously been on suicide watch, had any interactions with Yang where he could  
25 have observed Yang’s potentially suicidal behavior, or had access to Yang’s medical records  
26 which could have shown his history of suicidal ideation. (ECF No. 42 at 8.) Plaintiff has fixed  
27 some of these deficiencies in the SAC. Specifically, the SAC alleges that after Yang’s death,  
28 Ramos told homicide detectives he knew Yang “had been on suicide watch, on ‘step-down

1 checks' the previous days, and that this was Yang's first day in a normal cell." (ECF No. 44 at  
2 19.) The SAC further alleges that Ramos had contact with Yang after the court appearance which  
3 caused Yang distress. (*Id.* at 20.) While Plaintiffs do not allege Ramos knew of Yang's specific  
4 medical history, it is still plausible that Ramos was aware of a substantial risk of serious harm to  
5 Yang. Namely, Ramos knew that Yang had been on suicide watch after a court appearance only  
6 one day before. The Court agrees with Plaintiffs that a reasonable officer would appreciate the  
7 high degree of risk under these circumstances. Thus, the third element of the *Gordon* test is  
8 plausibly alleged.

9 As to the fourth element of the *Gordon* test, County Defendants do not address it in their  
10 motion. (*See* ECF No. 53-1.) Plaintiffs contend that by conducting insufficient welfare checks,  
11 "Ramos caused Yang's injuries because he failed to protect Yang and instead afforded Yang, a  
12 suicidal man, the uninterrupted opportunity to asphyxiate himself, despite . . . seeing the  
13 unconvincing bump in Yang's bed, and seeing his feet sticking out from the toilet area." (ECF  
14 No. 54 at 18.) The Court finds the causal link here plausible. In the SAC, Plaintiffs allege Ramos  
15 conducted safety checks that "consisted of nothing more than passing glances and walking by  
16 each cell without stopping to visually assess whether the inmate inside was breathing, or in  
17 medical distress, or involved in any prohibited behaviors, such as self-harming." (ECF No. 44 at  
18 20.) Plaintiffs allege on information and belief that Ramos saw an unconvincing bump in Yang's  
19 bed, and had the ability to see Yang's feet, an entire hour before Palmer discovered Yang. (*Id.* at  
20 20–21.) It is therefore plausible that Ramos's failure to conduct sufficient welfare checks  
21 contributed to Yang's injuries by allowing Yang the opportunity to asphyxiate himself without  
22 being discovered sooner.

23 Accordingly, the Court DENIES County Defendants' motion to dismiss Plaintiffs'  
24 deliberate indifference to a serious medical need claim against Ramos.

25 *ii. Palmer*

26 As previously stated, under the first element of the *Gordon* test, Plaintiffs must allege "the  
27 defendant made an intentional decision with respect to the conditions under which [Yang] was  
28 confined." *Gordon*, 888 F.3d at 1125. The Court previously found the FAC did not allege



1 Palmer made any intentional decisions with respect to Yang's conditions of confinement. (ECF  
2 No. 42 at 9.) "Specifically, Plaintiffs do not allege Palmer was involved in any way with the  
3 decision to take Yang off suicide watch and transfer him back to general population, nor do  
4 Plaintiffs allege Palmer made any decisions regarding where Yang was housed, his monitoring, or  
5 what materials he was provided in his cell." (*Id.*)

6 County Defendants reiterate the Court's findings and argue Palmer only had one  
7 interaction regarding Yang before discovering his death: his presence at a meeting two days  
8 before Yang's death where Boets made the decision to continue suicide watch. (ECF No. 53-1 at  
9 15; ECF No. 56 at 5.) County Defendants contend Plaintiffs do not allege Palmer was involved in  
10 any way with the decision to take Yang off suicide watch and transfer him back to general  
11 population nor do Plaintiffs allege Palmer made any decisions regarding where Yang was housed,  
12 his monitoring, or what materials he was provided in his cell. (ECF No. 53-1 at 15.) In  
13 opposition, Plaintiffs contend Palmer made three intentional decisions by omission: (1) failing to  
14 develop a safety plan for Yang despite knowing he was suicidal and posed a danger to himself;  
15 (2) failing to train and supervise Ramos to ensure adequate welfare checks of Yang; and (3)  
16 failing to adequately staff the jail with enough correctional officers. (ECF No. 54 at 19.)

17 The Court does not find Plaintiffs' arguments convincing. Plaintiffs attempt to amend the  
18 deficiencies in their FAC by making conclusory statements that draw a tenuous connection  
19 between Palmer's role as a supervisor and the general conditions of Yang's confinement.  
20 Plaintiffs still do not allege Palmer was involved in any way with the decision to take Yang off  
21 suicide watch and transfer him back to general population, nor do Plaintiffs allege Palmer made  
22 any decisions regarding where Yang was housed, his monitoring, or what materials he was  
23 provided in his cell. Thus, Plaintiffs still do not allege Palmer, as an individual defendant, made  
24 any intentional decisions regarding the specific conditions of Yang's confinement.

25 The Court previously granted Plaintiffs leave to amend this claim and identified identical  
26 deficiencies in the FAC, which Plaintiffs did not fix in their SAC. Accordingly, the Court  
27 GRANTS County Defendants' motion to dismiss Plaintiffs' claim for deliberate indifference to a  
28 serious medical need against Palmer with prejudice. *See Ecological Rights Found.*, 713 F.3d at



520 (“the court’s discretion to deny [leave to amend] is ‘particularly broad’ where the plaintiff has previously amended its complaint.”).

### B. Deprivation of Familial Relations

In Claim Two, Plaintiffs allege the actions of Defendants deprived Plaintiffs of their liberty interest in their relationship with their father and son and amounted to a violation of their substantive due process rights. (ECF No. 44 at 27 – 28.)

To state a claim for loss of familial association, a plaintiff must show that official conduct “‘shocks the conscience’ in depriving family members of a liberty interest in the companionship and society of a family member[.]” *Est. of Osuna v. County of Stanislaus*, 392 F. Supp. 3d 1162, 1176 (E.D. Cal. 2019) (citing *Wilkinson v. Torres*, 610 F.3d 546, 554 (9th Cir. 2010)). “In determining whether excessive force shocks the conscience, the court must first ask whether the circumstances are such that actual deliberation by the officer is practical . . . Where actual deliberation is practical, an officer’s deliberate indifference may suffice to shock the conscience.” *Wilkinson*, 610 F.3d at 554 (internal citations and quotations omitted). Moreover, “[r]ecovery for a violation of the right to familial association is generally contingent on the existence of an underlying constitutional violation.” *Schwarz v. Lassen County ex rel. Lassen County Jail*, 628 F. App’x 527, 528 (9th Cir. 2016).

County Defendants do not address the merits of this claim and argue that because Plaintiffs have failed to establish the claim for deliberate indifference, this derivative claim based on an underlying constitutional violation also fails. (ECF No. 53-1 at 16.) In opposition, Plaintiffs argue that Ramos and Palmer had time to deliberate before failing to perform adequate safety checks on Yang. (ECF No. 54 at 20.)

#### i. *Ramos*

The Court agrees with Plaintiffs regarding Ramos. Plaintiffs allege Ramos conducted three hourly safety checks, which only lasted a few minutes each. (ECF No. 44 at 20.) Plaintiffs allege Ramos conducted a safety check from 11:39 p.m. to 11:42 p.m., at which point Yang had placed clothing under his bed to create the appearance he was sleeping. (*Id.*) Plaintiffs further allege Yang’s feet were visible, Ramos left the F-Pod at 11:42 p.m. to take his lunch break, and

1 Yang was not discovered for another hour. (*Id.*)

2 As alleged in the SAC, it is plausible that Ramos had time to deliberate on the detail and  
3 duration of the safety checks, which occurred three times, each an hour apart. Therefore, it is  
4 plausible that Ramos had time to deliberate before failing to perform adequate safety checks on  
5 Yang, which would constitute deliberate indifference that shocks the conscience. *Wilkinson*, 610  
6 F.3d at 554.

7 Accordingly, the Court DENIES County Defendants’ motion to dismiss Plaintiffs’  
8 deprivation of familial relations claim against Ramos.

9 *ii. Palmer*

10 Because the Court finds Plaintiffs have not stated a plausible claim for deliberate  
11 indifference against Palmer, the derivative claim for deprivation of familial relations necessarily  
12 also fails. Accordingly, the Court GRANTS County Defendants’ motion to dismiss Plaintiffs’  
13 deprivation of familial relations claim against Palmer with prejudice.

14 *C. Monell Liability Against the County*

15 In Claim Three, Plaintiffs allege County Defendants failed to adequately train and  
16 supervise to ensure compliance with an Amended Consent Decree,<sup>2</sup> provided constitutionally  
17 insufficient levels of staffing, and had a custom and practice of inadequate mental healthcare for  
18 suicidal inmates. (ECF No. 44 at 29–41.)

19 To state a *Monell* claim against a municipality, a plaintiff must allege facts demonstrating  
20 “that an ‘official policy, custom, or pattern’ on the part of [the municipality] was ‘the actionable  
21 cause of the claimed injury.’” *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1143 (9th Cir. 2012)  
22 (quoting *Harper v. City of Los Angeles*, 533 F.3d 1010, 1022 (9th Cir. 2008)); *see also Mendiola-*  
23 *Martinez v. Arpaio*, 836 F.3d 1239, 1247 (9th Cir. 2016) (explaining that to establish municipal  
24 liability under § 1983, a plaintiff must show a direct causal link between the municipal policy or  
25 custom and the alleged constitutional violation).

26  
27 <sup>2</sup> Plaintiffs do not provide further details of this Amended Consent Decree, other than to  
28 state that the Amended Consent Decree “governed the care that was required to be provided to  
Mr. Yang.” (ECF No. 44 at 2.)

1 The Ninth Circuit recognizes four theories for establishing municipal liability under  
 2 *Monell*: “(1) an official policy; (2) a pervasive practice or custom; (3) a failure to train, supervise,  
 3 or discipline; or (4) a decision or act by a final policymaker.” *Horton by Horton v. City of Santa*  
 4 *Maria*, 915 F.3d 592, 602–03 (9th Cir. 2019). Plaintiffs allege the County is liable under § 1983  
 5 based on the second and third theories of liability.<sup>3</sup> (ECF No. 54 at 20.) The Court will address  
 6 Plaintiffs’ allegations under each theory in turn.

7 *i. Pervasive Practice or Custom*

8 County Defendants contend Plaintiffs do not identify instances of failure to properly  
 9 classify inmates, failure to maintain appropriate staffing, failure to supervise staff, covering up  
 10 violations, or similarly situated inmates receiving inadequate care.<sup>4</sup> (ECF No. 53-1 at 18.)  
 11 County Defendants further contend that Plaintiffs do not relate the Amended Consent Decree to  
 12 Yang or actions by correctional officers. (*Id.*)

13 In opposition, Plaintiffs argue that the County had an unconstitutional practice or custom  
 14 of (1) failing to sufficiently staff Yuba County Jail to ensure adequate welfare checks and (2)  
 15 failing to provide prompt psychiatric care.<sup>5</sup> (ECF No. 54 at 21.) Plaintiffs further argue that they  
 16 identify the County’s unconstitutional custom of failing to sufficiently staff the Jail in compliance  
 17 with Title 15 of the California Code of Regulations and the Amended Consent Decree. (*Id.*)

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18  
 19 <sup>3</sup> Plaintiffs also allege liability under the fourth theory of *Monell* liability in the FAC and  
 20 appear to do so in the SAC. However, Plaintiffs clarify in their opposition that they are alleging a  
 21 claim against the County under two theories of *Monell* liability: (1) pervasive practice or custom;  
 22 and (2) a failure to train. (ECF No. 54 at 20–24.) Accordingly, the Court will only address these  
 23 two theories.

24 <sup>4</sup> County Defendants also argue Plaintiffs still only allege one prior incident of an inmate  
 25 committing suicide at the Yuba County Jail and reiterate that *Estate of Bertram Hiscock v. County*  
 26 *of Yuba*, No. 2:17-cv-02706-JAM-GGH (E.D. Cal. 2018) is distinguishable from this instant case,  
 27 and that even if *Hiscock* is similar, Plaintiffs’ alleged instance of prior inadequate medical care is  
 28 conclusory. (*Id.* at 18.) The Court has already stated in its prior June 13, 2024 Order that  
*Hiscock* is markedly distinguishable from the instant case and need not readdress these arguments  
 here. (ECF No. 42 at 12.)

<sup>5</sup> Plaintiffs also argue that because Wellpath did not file a motion to dismiss this claim and  
 filed an Answer, this claim must be well-pleaded. For the reasons set forth below, the Court finds  
 this argument unconvincing.

1 Plaintiffs contend they also identify in the SAC the County's custom of providing inadequate  
2 mental health care for suicidal inmates and pursuant to this custom Fithian failed to provide a  
3 needed psychiatric consult for Yang, "who was acutely psychotic and in desperate need of anti-  
4 psychotic medications." (*Id.* at 21–22.)

5 The Court previously noted that to state a claim for pervasive practice or custom under  
6 *Monell*, Plaintiffs must allege a pattern of similar constitutional violations involving the County's  
7 failure to provide adequate psychiatric care for suicidal inmates. (ECF No. 42 at 12.) Plaintiffs  
8 have not done so. While Plaintiffs attempt to add another pervasive practice or custom to their  
9 claim, namely the practice or custom of the County's staffing practices, they fail to provide  
10 adequate support for either practice or custom. Thus, the Court agrees with County Defendants  
11 that Plaintiffs have still not provided any support for the existence of a systemic failure to  
12 maintain appropriate staffing or provide prompt care. While Plaintiffs have submitted a  
13 declaration (*see* ECF No. 54-1) which references previous instances of recent suicide attempts at  
14 the Jail, these facts cannot be considered on this motion. *See Swartz v. KPMG LLP*, 476 F.3d  
15 756, 763 (9th Cir. 2007) ("In ruling on a 12(b)(6) motion, a court may generally consider only  
16 allegations contained in the pleadings, exhibits attached to the complaint, and matters properly  
17 subject to judicial notice.").

18 Accordingly, the Court GRANTS County Defendants' motion to dismiss Plaintiffs'  
19 *Monell* claim under the "pervasive practice or custom" theory of liability. County Defendants  
20 argue Plaintiffs should not be allowed to submit a Third Amended Complaint. (ECF No. 56 at 8.)  
21 County Defendants argue that all facts known to Plaintiffs were available at the time of filing of  
22 the earlier motion, that Plaintiffs fail to explain why they did not raise the facts in their  
23 declaration earlier, and that Plaintiffs are represented by three different offices. (*Id.*) Indeed, the  
24 Court notes that Plaintiffs have already filed three different complaints in this case and Plaintiffs  
25 have not addressed the deficiencies outlined in the Court's previous June 13, 2024 Order.  
26 Accordingly, the Court dismisses this claim with prejudice. *See Ecological Rights Found.*, 713  
27 F.3d at 520 ("the court's discretion to deny [leave to amend] is 'particularly broad' where the  
28 plaintiff has previously amended its complaint.").

ii. *Failure to Train*

A local government's failure to train its employees may also create § 1983 liability when the "failure to train amounts to deliberate indifference to the rights of persons with whom the [employees] come into contact." *City of Canton v. Harris*, 489 U.S. 378, 388 (1989). "The issue is whether the training program is adequate and, if it is not, whether such inadequate training can justifiably be said to represent municipal policy." *Long v. County of Los Angeles*, 442 F.3d 1178, 1186 (9th Cir. 2006). "A pattern of similar constitutional violations by untrained employees is 'ordinarily necessary' to demonstrate deliberate indifference for purposes of failure to train." *Connick v. Thompson*, 563 U.S. 51, 62 (2011) (quoting *Bd. of Cnty. Comm'rs v. Brown*, 520 U.S. 397, 409 (1997)). However, a plaintiff can "prov[e] a failure-to-train claim without showing a pattern of constitutional violations where 'a violation of federal rights may be a highly predictable consequence of a failure to equip law enforcement officers with specific tools to handle recurring situations.'" *Long*, 442 F.3d at 1186 (quoting *Brown*, 520 U.S. at 409).

County Defendants argue Plaintiffs do not allege what training Jail personnel did or did not receive, or causally connect the deficiencies in that training to the harm Yang suffered. (ECF No. 53-1 at 19.) County Defendants contend Plaintiffs fail to “allege Yang’s death was a highly predictable consequence of the County’s failure to train employees on how to handle, house, and care for inmates who have recently been taken off suicide watch.” (*Id.*) In opposition, Plaintiffs contend the County failed to train officers on the Amended Consent Decree, including proper completion of safety checks. (ECF No. 54 at 22.) Specifically, Plaintiffs maintain Ramos’s safety checks did not comply with the Amended Consent Decree and were “grossly inadequate” in assessing whether Yang was engaging in self-harming behaviors. (*Id.* at 23.)

As a preliminary matter, the Court previously noted that nowhere in the FAC do Plaintiffs allege County officers knew or should have known Yang was still at risk of committing suicide after Wellpath took Yang off suicide watch. (ECF No. 42 at 14.) In addition, the Court noted Plaintiffs also do not allege Yang was visibly in mental distress after being transferred back to general population, nor do Plaintiffs allege Yang told any of the officers on duty in F-Pod that he was having suicidal ideations or requested mental healthcare. (*Id.*) County Defendants merely

1 reiterate these points regarding the SAC.

2 While Plaintiffs fail to clearly point to their amendments, the Court nonetheless finds they  
3 have sufficiently addressed the deficiencies in the complaint. The SAC now alleges that “under  
4 the Yuba County Jail Manual Policy #A-100, [Palmer] was responsible for fully informing and  
5 training [Ramos] about all requirements and obligations of the Jail’s policies, which incorporated  
6 by reference the terms of the Amended Consent Decree.” (ECF No. 44 at 21.) Plaintiffs include  
7 an excerpt from the Amended Consent Decree, which sets out how custody staff must conduct  
8 health and safety checks, including visual observation, verbal interaction if necessary to  
9 determine the inmate’s well-being, and irregular and unpredictable checks. (*Id.* at 19.) Plaintiffs  
10 allege various facts regarding how Ramos did not follow these requirements when conducting  
11 checks on Yang. (*Id.* at 19–21.) Plaintiffs also allege that the County did not sufficiently staff the  
12 Jail in accordance with the Amended Consent Decree, because there were not enough officers in  
13 housing unit Level 3 to ensure direct visual safety checks could be accomplished. (*Id.* at 22.)  
14 Thus, the Court finds Plaintiffs have alleged a specific training policy, and a factual basis for why  
15 Yang’s death may have been a “highly predictable consequence” of the failure to equip officers to  
16 handle safety checks.

17 Accordingly, the Court DENIES County Defendants’ motion to dismiss Plaintiffs’ *Monell*  
18 claim under the “failure to train” theory of liability. Plaintiffs’ *Monell* claim may only proceed on  
19 the “failure to train” theory of liability.

20 D. Supervisory Liability

21 In Claim Four, Plaintiffs allege Palmer, as a supervisor, “permitted and failed to prevent  
22 the unconstitutional acts of other Defendants and individuals under their supervision and control,  
23 and failed to properly supervise such individuals, with deliberate indifference to the rights and  
24 serious medical needs of” Yang. (ECF No. 44 at 41.)

25 A supervisor may be held liable under § 1983 where “there exists either (1) his or her  
26 personal involvement in the constitutional deprivation, or (2) a sufficient causal connection  
27 between the supervisor’s wrongful conduct and the constitutional violation.” *Rodriguez v.*  
28 *County of Los Angeles*, 891 F.3d 776, 798 (9th Cir. 2018). “The requisite causal connection can

1 be established . . . by setting in motion a series of acts by others or by knowingly refusing to  
2 terminate a series of acts by others, which the supervisor knew or reasonably should have known  
3 would cause others to inflict a constitutional injury.” *Id.* “Thus, a supervisor may ‘be liable in  
4 his individual capacity for his own culpable action or inaction in the training, supervision, or  
5 control of his subordinates; for his acquiescence in the constitutional deprivation; or for conduct  
6 that showed a reckless or callous indifference to the rights of others.” *Id.*

7 County Defendants argue Plaintiffs do not allege facts to support these claims, as there are  
8 no allegations Palmer made the decision to remove Yang from suicide watch or to keep Yang on  
9 suicide protocol, nor are there allegations regarding how much information Palmer knew about  
10 Yang’s mental health condition or how the monitoring was insufficient or caused Yang’s death.  
11 (ECF No. 53-1 at 22.) County Defendants also argue Plaintiffs do not allege facts to show Palmer  
12 was aware of the purported constitutional violations. (*Id.*) In opposition, Plaintiffs contend  
13 Palmer was responsible for staffing but he set in motion a short-staffing situation in which Ramos  
14 could not provide adequate safety checks at the Jail, including the safety checks for Yang. (ECF  
15 No. 54 at 24.)

16 As stated in the Court’s prior June 13, 2024 Order, to state a claim for supervisory liability  
17 against Palmer, Plaintiffs must allege (1) Ramos exhibited deliberate indifference to Yang’s  
18 medical needs and (2) a sufficient causal connection between Palmer’s conduct and Ramos’s  
19 deliberate indifference. (ECF No. 42 at 15–16.) With respect to the first element, as stated  
20 above, the Court finds the SAC adequately alleges Ramos was deliberately indifferent to Yang’s  
21 medical needs. With respect to the second element, however, Plaintiffs still fail to allege  
22 sufficient facts that show a causal connection between Palmer’s conduct and Ramos’s alleged  
23 infringement of Yang’s Fourteenth Amendment rights. (*See* ECF No. 44 at 41–42.) As noted in  
24 the prior Order and by County Defendants, Plaintiffs still do not allege Palmer was personally  
25 involved in overseeing Ramos’s safety checks, knew they were allegedly indifferent, or refused to  
26 intervene after becoming aware of Ramos’s allegedly deficient safety checks. (ECF No. 42 at 16;  
27 ECF No. 53-1 at 22.)

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1 The Court previously granted Plaintiffs leave to amend this claim and identified identical  
2 deficiencies in the FAC, which Plaintiffs did not fix in their SAC. Accordingly, the Court  
3 GRANTS County Defendants' motion to dismiss Plaintiffs' supervisory liability claim with  
4 respect to Palmer with prejudice. *See Ecological Rights Found.*, 713 F.3d at 520 ("the court's  
5 discretion to deny [leave to amend] is 'particularly broad' where the plaintiff has previously  
6 amended its complaint.").

7 E. Bane Act

8 In Claim Five, Plaintiffs allege all Defendants violated Yang's rights under California  
9 Civil Code § 52.1 (the "Bane Act") by violating clearly established rights under the U.S. and  
10 California Constitutions. (ECF No. 44 at 42.)

11 The Bane Act creates a cause of action against any person who "interferes by threats,  
12 intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion," with the  
13 constitutional rights of an individual. Cal. Civ. Code § 52.1. The Bane Act "does not require the  
14 'threat, intimidation, or coercion' element of the claim to be transactionally independent from the  
15 constitutional violation alleged." *Reese v. County of Sacramento*, 888 F.3d 1030, 1043 (9th Cir.  
16 2018). For example, "the coercion inherent in a Fourth Amendment violation could support a  
17 Bane Act claim." *Sandoval v. County of Sonoma*, 912 F.3d 509, 520 (9th Cir. 2018). However,  
18 the Bane Act still requires "a showing of the defendant's specific intent to violate the plaintiff's  
19 constitutional rights." *Rodriguez*, 891 F.3d at 802.

20 County Defendants argue Plaintiffs do not specifically identify what Ramos or Palmer did  
21 separately from other named Defendants to violate the Bane Act and the SAC is devoid of  
22 specific actions by specific Defendants which constitute threats, intimidation, or coercion. (ECF  
23 No. 53-1 at 23.) County Defendants also argue, to the extent Plaintiffs are attempting to allege a  
24 Bane Act claim under Title 15, the claim also fails because Plaintiffs do not allege facts to  
25 suggest Ramos or Palmer acted with specific intent to violate Yang's constitutional rights or that  
26 either of them knew or had reason to know Yang was still at heightened suicide risk after he was  
27 transferred back to general population. (*Id.* at 24.) In opposition, Plaintiffs contend they have  
28 adequately pleaded Fourteenth Amendment claims against Ramos and Palmer, who both knew

1 Yang was at high risk of suicide but failed to create a safety plan for him and failed to perform  
2 safety checks that complied with Title 15, the consent decree, and the County's own policy.  
3 (ECF No. 54 at 25.) Plaintiffs further maintain their well-pleaded deliberate indifference claims  
4 against Palmer and Ramos satisfy the Bane Act's "specific intent" requirements. (*Id.* at 26.)

5 As similarly stated in the Court's prior June 13, 2024 Order, even if Plaintiffs' allegations  
6 regarding Title 15, the consent decree, or the County's own policy were enough to satisfy the  
7 Bane Act's predicated constitutional violation requirement—and indeed Plaintiffs have  
8 adequately pleaded a Fourteenth Amendment deliberate indifference to a serious medical need  
9 claim against Ramos—Plaintiffs do not allege any facts that suggest Ramos or Palmer acted with  
10 the specific intent to violate Yang or Plaintiffs' constitutional rights. *Rodriguez*, 891 F.3d at 802.  
11 As stated throughout this Order, Plaintiffs do not allege Ramos or Palmer knew or had reason to  
12 know Yang was still at heightened suicide risk after he was transferred back into general  
13 population. Without these factual allegations, it would be illogical for the Court to conclude  
14 Ramos and Palmer completed allegedly deficient Title 15 safety checks with "the particular  
15 purpose of depriving [Yang and Plaintiffs] of [their] enjoyment of the interests protect[ed] by  
16 [their constitutional] right[s]." *Cornell v. City & County of San Francisco*, 17 Cal. App. 5th 766,  
17 803 (2017).

18 The Court previously granted Plaintiffs leave to amend this claim and identified identical  
19 deficiencies in the FAC, which Plaintiffs did not fix in their SAC. Accordingly, the Court  
20 GRANTS County Defendants' motion to dismiss Plaintiffs' Bane Act claim with prejudice. *See*  
21 *Ecological Rights Found.*, 713 F.3d at 520 ("the court's discretion to deny [leave to amend] is  
22 'particularly broad' where the plaintiff has previously amended its complaint.").

23 F. Negligence

24 In Claim Six, Plaintiffs allege Ramos and Palmer were negligent in failing to provide  
25 reasonable and due care owed to Yang by failing to: provide safe and appropriate jail custody for  
26 Yang, including reasonable classification and direct visual hourly safety checks; provide prompt  
27 and timely access to appropriate treatment and safety from the grave danger he posted to himself;  
28 provide safe and appropriate jail custody for Yang; summon necessary and appropriate medical

1 care; implement and/or enforce and/or properly execute drastically needed suicide prevention  
 2 policies; refrain from abusing authority granted to them by law; and refrain from violating  
 3 Plaintiffs’ constitutional rights. (ECF No. 44 at 44.)

4 County Defendants argue they are immune from liability under California Government  
 5 Code § 845.6.<sup>6</sup> (ECF No. 53-1 at 25–26.) California Government Code § 845.6 provides:

6 Neither a public entity nor a public employee is liable for injury  
 7 proximately caused by the failure of the employee to furnish or  
 8 obtain medical care for a prisoner in his custody; but . . . a public  
 9 employee, and the public entity where the employee is acting within  
 the scope of his employment, is liable if the employee knows or has  
 reason to know that the prisoner is in need of immediate medical care  
 and he fails to take reasonable action to summon such medical care.

10 Cal. Gov’t Code § 845.6. “[U]nder Government Code [§] 845.6, both a public entity and its  
 11 employees are immune from claims based on injuries to prisoners caused by a failure to provide  
 12 medical care, except when an employee, acting within the scope of his employment, fails to  
 13 provide medical care to a prisoner and has reason to know that need for medical care is  
 14 immediate.” *Lawson v. Superior Ct.*, 180 Cal. App. 4th 1372, 1384 (2010); *see also* *Arias v.*  
 15 *County of Los Angeles*, No. CV2106865MWFKES, 2022 WL 1557057, at \*3 (C.D. Cal. Mar. 29,  
 16 2022) (Thus, “[a] fair reading of [§] 845.6 reveals that a public employee is liable if he fails to  
 17 summon medical care in situations where the need for medical care is known . . . [b]ut in  
 18 situations where the need for medical care is unknown, the public employee is immune from  
 19 liability.”).

20 In opposition, Plaintiffs contend § 845.6 is inapplicable to “nearly all of Plaintiffs’  
 21 negligence theories” because the allegations against Ramos and Palmer concern their failures to  
 22 protect Yang by failing to monitor him — not from failing to summon medical care for him.  
 23 (ECF No. 54 at 28.)

24 Like the Court did in its prior June 13, 2024 Order, it disagrees with Plaintiffs. As  
 25 alleged, Plaintiffs’ negligence claims stem from Ramos and Palmer’s alleged failure to properly

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26 <sup>6</sup> County Defendants also argue Plaintiffs fail to articulate the basis of negligence for  
 27 Palmer and Ramos and contend the claim is insufficiently pleaded. (ECF No. 53-1 at 24–25.)  
 28 However, because the Court finds County Defendants are immune from Plaintiffs’ negligence  
 claim, the Court declines to address these arguments.

1 monitor Yang given his heightened suicide risk. (ECF No. 44 at 43–45.) In applying § 845.6 to  
 2 cases involving a detainee or inmate’s suicide, district courts across the Ninth Circuit have  
 3 consistently found that suicide is a mental health problem for which incarcerated individuals have  
 4 the right to receive medical care, which can include withholding items that can be used for self-  
 5 harm and providing additional surveillance. *Arias*, 2022 WL 1557057, at \*3 (citing cases)  
 6 (“[S]ection 845.6 is applicable to cases of suicide.”). Thus, “where a suicide occurs and the need  
 7 for medical care was unknown, public entities and employees are immune from suit under [§]  
 8 845.6.” *Id.*; see also *Arceo v. City of Roseville*, No. 2:20-cv-02334-DAD-DB, 2024 WL 871463  
 9 (E.D. Cal. Feb. 28, 2024). As Plaintiffs have not alleged Ramos or Palmer knew or should have  
 10 known Yang needed medical care because he was at imminent risk of committing suicide, the  
 11 Court finds County Defendants are immune from Plaintiffs’ negligence claims.

12 The Court previously granted Plaintiffs leave to amend this claim and identified identical  
 13 deficiencies in the FAC, which Plaintiffs did not fix in their SAC. Accordingly, the Court  
 14 GRANTS County Defendants’ motion to dismiss Plaintiffs’ negligence claim with prejudice. *See*  
 15 *Ecological Rights Found.*, 713 F.3d at 520 (“the court’s discretion to deny [leave to amend] is  
 16 ‘particularly broad’ where the plaintiff has previously amended its complaint.”).

#### 17 **IV. CONCLUSION**

18 For the foregoing reasons, the Court GRANTS IN PART and DENIES IN PART County  
 19 Defendants’ motion to dismiss (ECF No. 53) as follows:

- 20 1. County Defendants’ motion to dismiss Plaintiffs’ deliberate indifference to serious  
 21 medical needs claim is DENIED with respect to Ramos and GRANTED with  
 22 prejudice with respect to Palmer;
- 23 2. County Defendants’ motion to dismiss Plaintiffs’ deprivation of familial relations  
 24 claim is DENIED with respect to Ramos and GRANTED with prejudice with respect  
 25 to Palmer;
- 26 3. County Defendants’ motion to dismiss Plaintiffs’ *Monell* liability claim is GRANTED  
 27 with prejudice with respect to the “pervasive practice or custom” theory of liability  
 28 and DENIED with respect to the “failure to train” theory of liability;

1           4. County Defendants' motion to dismiss Plaintiffs' supervisory liability claim is  
2           GRANTED with prejudice;

3           5. County Defendants' motion to dismiss Plaintiffs' Bane Act claim is GRANTED with  
4           prejudice; and

5           6. County Defendants' motion to dismiss Plaintiffs' negligence claim is GRANTED with  
6           prejudice.

7           County Defendants shall file an answer not later than twenty-one (21) days from the electronic  
8           filing date of this Order.

9           IT IS SO ORDERED.

10          Date: December 2, 2024

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TROY L. NUNLEY  
CHIEF UNITED STATES DISTRICT JUDGE